

#### **§ 242.64**

financing), equipment leases, or derivative-type transactions, except in conformance with policies and procedures established by HUD.

#### **§ 242.64 Current and future property.**

All current or future property (including personalty) of the mortgagor on or off mortgaged real estate (except that specifically restricted by donors or specifically excluded by HUD) will be considered as part of the HUD-insured hospital and subject to all provisions of the HUD regulatory agreement. All equipment acquired by the hospital following initial endorsement and at any time during the term of the loan shall become subject to the lien of the security agreement and any Uniform Commercial Code Financing Statements filed pursuant to the security agreement, unless the mortgagor specifically requests and HUD, for good cause, approves subordination of the lien of the insured mortgagee on specific personalty for specific periods of time. The first lien on the realty (as defined in the regulatory agreement and as identified in the security instrument) cannot be subordinated in whole or in part.

#### **§ 242.65 Distribution of assets.**

The Commissioner shall establish financial thresholds and procedures for the distribution of surplus cash and other assets. Surplus cash that meets the definition in 24 CFR 242.1, or cash that has been expressly approved for distribution by HUD, may be distributed to other organizations formally affiliated with the mortgagor, a parent organization with which the mortgagor is also affiliated, partners, or stockholders, in accordance with those financial thresholds and procedures set forth in the regulatory agreement. Other assets may be distributed to other organizations formally affiliated with the mortgagor, a parent organization with which the mortgagor is also affiliated, partners, or stockholders, in accordance with those financial thresholds and procedures set forth in the regulatory agreement, and in accordance with the release of lien conditions in 24 CFR 242.62, if applicable.

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#### **§ 242.66 Affiliate transactions.**

Transactions with affiliates that are arms-length are permitted as specified in the Regulatory Agreement. Transactions with affiliates that are not arms-length are not permitted except with the prior written approval of HUD.

#### **§ 242.67 New corporations, subsidiaries, affiliations, and mergers.**

The mortgagor shall not establish, develop, organize, acquire, become the sole member of, or acquire an interest sufficient to require disclosure on the audited financial statements of the mortgagor, in any corporation, subsidiary, or affiliate organization other than those with which the mortgagor was affiliated as of date of application, without the prior approval of HUD. The mortgagor shall obtain HUD's written approval for all future mergers.

### **Subpart H—Miscellaneous Requirements**

#### **§ 242.68 Disclosure and verification of Social Security and Employer Identification Numbers.**

The requirements set forth in 24 CFR part 5, regarding the disclosure and verification of Social Security Numbers and Employer Identification Numbers, and Employer Identification Numbers by “applicants for and participants in” assisted mortgage and loan insurance and related programs, apply to this program.

#### **§ 242.69 Transfer fee.**

Upon application for review of a transfer of physical assets or the substitution of mortgagors, a transfer fee of 50 cents per thousand dollars of the outstanding principal balance of the mortgage shall be paid to HUD. A transfer fee is not required if both parties to the transfer transaction are not-for-profit or public organizations.

#### **§ 242.70 Fees not required.**

The payment of an application, commitment, inspection, or reopening fee shall not be required in connection with the insurance of a mortgage involving the sale by the Secretary of